

HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HUNTERS CAPITAL, LLC, et al.,

Plaintiffs,

v.

CITY OF SEATTLE,

Defendant.

Case No. 20-cv-00983-TSZ

CITY OF SEATTLE'S MOTION TO SEAL
THE CITY'S OPPOSITION TO CLASS
CERTIFICATION AND CERTAIN EXHIBITS
TO THE DECLARATION OF TYLER L.
FARMER IN SUPPORT OF THE CITY'S
OPPOSITION TO MOTION FOR CLASS
CERTIFICATION

**NOTE ON MOTION CALENDAR:
February 25, 2022**

I. RELIEF REQUESTED

Concurrent with this motion, Defendant City of Seattle is filing its Opposition to Plaintiffs' Motion for Class Certification ("Opposition") and the Declaration of Tyler L. Farmer in Support of City of Seattle's Opposition to Motion for Class Certification ("Farmer Declaration"). Both the City's Opposition and the Farmer Declaration cite to and rely on documents and deposition excerpts that Plaintiffs have designated as "Confidential" under the terms of the Stipulated Protective Order entered in this case (Dkt. No. 41). Pursuant to Local Civil Rule 5(g) and the Stipulated Protective Order, the City is provisionally filing its Opposition and the Farmer Declaration under seal, pending the Court's ruling on this motion. As detailed below, it is

1 Plaintiffs' responsibility, as the designating party, to provide a basis for maintaining under seal
2 each of the provisionally sealed documents.

3 II. CERTIFICATION

4 In accordance with LCR 5(g)(3)(A), undersigned counsel certify that on February 7, 2022,
5 Shane Cramer and Bryn Pallesen (on behalf of the City) and Tyler Weaver and Gabe Reilly-Bates
6 (on behalf of Plaintiffs) met and conferred in good faith (both telephonically and by email),
7 regarding the need to file the Opposition and certain exhibits to the Farmer Declaration under seal,
8 ways to potentially minimize the amount of material filed under seal, and whether redaction or
9 other alternatives to filing the under seal would suffice.

10 III. FACTS AND AUTHORITY

11 LCR 5(g)(3)(B) provides that where, as here, parties have entered into a stipulated
12 protective order, "a party wishing to file a confidential document it obtained from another party in
13 discovery may file a motion to seal but need not" provide a "specific statement of the applicable
14 legal standard and the reasons for keeping the document under seal." The terms of the Stipulated
15 Protective Order entered in this case require that "the designating party . . . identify the basis for
16 sealing the specific confidential information at issue" and "the filing party . . . include this basis in
17 its motion to seal, along with any objection to sealing the information at issue." Dkt. 41 at p. 4.

18 Plaintiffs designated as "Confidential" (*see* Dkt. 41) certain documents and deposition
19 transcripts on which the City relies to oppose Plaintiffs' Motion for Class Certification (Dkt. 65).
20 As part of the Parties' meet and confer, and in order to limit the number of documents that would
21 need to be filed under seal, Plaintiffs removed the confidentiality designations from a number of
22 documents, and the City agreed to omit certain documents or pages in its submissions to the Court.

23 The documents Plaintiffs currently contend are "Confidential" and must be sealed include
24 Exhibits 11, 12, 15, 17, 18, 20, 39, 86, 88, and 91 to the Farmer Declaration. Because the
25 Opposition references material from these exhibits, it too must be sealed, with a redacted copy

1 being filed on the public docket.

2 Plaintiffs request that Exhibits 39 and 88 be sealed in their entirety. Plaintiffs propose that
3 the remaining documents be redacted. Plaintiffs identified the following bases in support of their
4 request:

- 5 • Exhibit 11 contains commercially sensitive competitive information, including
6 third-party rent terms.
- 7 • Exhibit 12 contains commercially sensitive third-party information, including
8 amounts of lost rent and management fees.
- 9 • Exhibit 15 contains commercially sensitive third-party information, including rent
10 abatement.
- 11 • Exhibits 17 and 18 contain commercially sensitive third-party information.
- 12 • Exhibits 20 and 39 contain commercially sensitive, competitive information,
13 including sales information.
- 14 • Exhibit 86 contains confidential financial information and competitive information.
- 15 • Exhibits 88 and 91 contain competitively sensitive information, including rent rates,
16 information from which rent rates could be determined, and rent deals.

17 It is not the City's obligation to establish the propriety of any of Plaintiffs' confidentiality
18 designations. And, in fact, the City does not agree with many of Plaintiffs' designations. That
19 said, the City anticipates that in their response to this motion, Plaintiffs will lay out the reasons
20 why they believe the documents should remain sealed. LCR 5(g)(3)(B) (the designating party has
21 an obligation "in its response to the motion to seal" to provide "a specific statement of the
22 applicable legal standard and the reasons for keeping a document under seal, with evidentiary
23 support from declarations where necessary").

24

25

V. CONCLUSION

For the foregoing reasons, the City respectfully requests that the Court determine whether the documents designated as “Confidential” by Plaintiffs should remain under seal. A proposed order accompanies this motion.

DATED this 7th day of February, 2022.

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